

## REMARKS / ARGUMENTS

### Objections to the Drawings

The drawings have initially been objected to under 37 CFR 1.83(a) as not showing every feature of the invention specified in the claims. Specifically, the Official Action asserts that the "cap mounted on the substrate" as recited in claim 1 is not shown in the drawings. In response, new drawing figure 6, annexed in Appendix A, is proposed. Fig. 6 is a cross-sectional view of the threshold assembly shown in exploded perspective in Fig. 5 as it appears after assembly. As can be seen, the threshold cap 66 is mounted within the upwardly open channel formed along the inside edge portion of the substrate 63. While the outside lip of the threshold cap indeed fits over the dam of the sill 64, the threshold cap itself is not mounted on the sill. Instead, the threshold cap is mounted "on the substrate" as claimed. It is requested that new Fig. 6 be accepted, in light of this clarification, as being fully responsive to the drawing objection. The specification has been amended to add a description of Fig. 6 to the "Brief Description of the Drawings" section.

### Rejections Under 35 USC 112

Claims 1-8 have initially been rejected under 35 USC 112, second paragraph, as being indefinite for failing to point out particularly and claim distinctly the subject matter regarded by Applicant as the invention. The Official Action cites a number of specific items to which this objection is directed. These items are addressed individually as follows.

The phrase "a threshold cap mounted on said substrate" was objected to in claim 1 line 5 as not being readily understood by the Examiner. It is believed that this rejection is now clarified in view of the submission on new Fig. 6. Fig 6 shows the threshold cap 66 resting on the floor of the upwardly open channel formed along the inside edge portion of the substrate 63. As such, the threshold cap is "mounted on said substrate" as claimed. Reconsideration and withdrawal of this section 112 rejection is requested.

The term "wood flower" in claim 8, line 2 is cited as not being readily understood by the Examiner. In fact, this term resulted from a typographical error. It should have read "wood flour." This correction has now been made. Further, information regarding the product known in the industry as "wood flour" is annexed hereto in Appendix B.

A lack of antecedent basis for the terms "the end," "the adjacent end," and "the other substrate section" in claim 2 was

cited in the rejection under section 112. Claim 2 has now been amended in this regard and the rejection is believed obviated.

Rejections Under 35 USC 102(b)

Claims 1, 3, 4, and 16-20 have initially been rejection under 35 USC §102(b) as being anticipated by Headrick et al. (U. S. Patent No. 5,611,173). Claims 1, 3, and 4 have been amended and are believed to define clearly over the cited reference, and, it is believed that claims 16-20, as originally submitted, define over Headrick et al., all in view of the following discussion.

In order to anticipate a claim under §102(b), a reference must contain all of the essential elements of the claim. "[A]n anticipation rejection requires a showing that each limitation of a claim must be found in a single reference, practice, or device." *In re Donohue*, 766 F.2d 531, 226 USPQ 619, 621 (Fed. Cir. 1985). "It is axiomatic that for prior art to anticipate under §102, it has to meet every element of the claimed invention." *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 USPQ 81, 90 (Fed. Cir. 1986). Accordingly, for a rejection under §102, a cited reference is required to show every element of any claim(s) rejected thereupon. MPEP §706.02(a). Applicants submit that the cited reference in the

presence case fail to meet these statutory requirements for the following reasons.

Independent claim 1, as now amended, recites a threshold assembly comprising a substrate made of at least two substrate sections *attached and interlocked together end-to-end*. Claim 1 further recites a sill mounted on said substrate and a threshold cap mounted on said substrate (emphasis added). Nowhere does Headrick teach or suggest that a substrate be made of at least two substrate sections attached and interlocked together end-to-end as claimed. The only oblique reference to what the Office Action apparently considers as meeting this claim element appears at Column 5, line 29. There, it is simply stated, without further elaboration, that "rigid plastic blocks 26 are secured in place on the underside of the frame as shown to add strength and rigidity to the structure." Nowhere is it suggested that these blocks form or function as a substrate or that they are coupled together in any way, much less being attached and interlocked together as claimed. In fact, the undersigned, having drafted the Headrick et al. patent, now owned by the assignee of the present application, is personally aware that the "rigid plastic blocks" referred to in Headrick et al. are not attached together at all. In fact, they are small substantially square blocks of plastic material that are *spaced apart from each other* and attached to the bottom of the aluminum

sill with staples (see Fig. 2 of Headrick et al.) to lend rigidity to the aluminum. Such a configuration is, in fact, just the opposite of attaching and interlocking sections together as claimed.

Headrick et al. also fails to teach a threshold cap that is "mounted on a substrate" as claimed in amended claim 1. Instead, the threshold cap 13 of Headrick et al. is contained within a channel formed by the extruded aluminum sill. The plastic blocks 26, which the Official Action interprets as a substrate, are completely covered by the aluminum sill. Thus, the threshold cap cannot be "mounted on said substrate" in the Headrick et al. sill.

Accordingly, Headrick et al. does not teach or suggest all of the elements recited in amended claim 1. The rejection under 35 USC §102(b) is therefore obviated and claim 1, as amended, is now in condition for allowance.

Claims 2-8 depend from amended claim 1 and are thus also allowable over the Headrick et al. reference.

With regard to independent claim 16, it is believed that this claim is allowable over Headrick et al. as the claim was originally filed. Reconsideration of the rejection is therefore requested in view of the following.

Claim 16 recites a threshold assembly for an entryway, said threshold assembly comprising an elongated substrate *formed from*

*at least two substrate sections joined together in end-to-end relationship.* A sill is claimed as being mounted to and at least partially covering said substrate, said sill defining a sill deck supported by said substrate. Neither Headrick et al. nor any of the art of record teaches or suggests a threshold assembly in which a support substrate is "formed from at least two substrate sections joined together in end-to-end relationship" as claimed in claim 16. Although Headrick et al. mentions rigid plastic blocks secured in place on the underside of the frame, nowhere does it teach or suggest that these blocks are joined together in end-to-end relationship, as would be required to support a 102(b) rejection. In fact, as mentioned above, the undersigned has personal knowledge that the "rigid plastic blocks" mentioned in Headrick et al. are spaced apart from each other. From this perspective then, Headrick et al. actually teaches away from the claimed structure.

Accordingly, claim 16, as originally filed, is believed to define clearly over Headrick et al. and over other prior art references. Reconsideration and withdrawal of the rejection of claim 16 is thus earnestly requested.

Claims 17-20 depend from claim 16 and contain all of the limitations thereof. Accordingly, these claims are believed to be allowable for the same reasons that claim 16 is allowable.



In summary, the rejections and objections in the Official Action directed to matters of formality have been addressed. Claims 1-8 have been amended. Claims 1-8 and 16-20 define a threshold assembly of unique construction and attributes not taught or suggested by the prior art. Accordingly, these claims are believed to be in condition for allowance and an early notice to such effect is earnestly solicited.

Respectfully submitted,

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